

**REMARKS**

None of the claims have been amended herein.

Claims 1, 2, 6 and 8 are currently pending and under consideration. Reconsideration is respectfully requested.

The Applicant also request that the Examiner consider and acknowledge the references submitted in the Information Disclosure Statement filed on October 30, 2006.

**I. REJECTION OF CLAIMS 1, 2, 6 AND 8 UNDER 35 U.S.C. 103(a) AS BEING UNPATENTABLE OVER REYNOLDS (U.S. PATENT NO. 5,742,499):**

Claim 1 of the present invention recites "a communications method of performing communications by switching over a plurality of communication modes, comprising: measuring a communication performance between a plurality of communication devices connected to a network, by measuring a communication time of each of the communication modes of one of the communication devices under a plurality of communication conditions comprising a version of an operating system of the communication devices; obtaining a condition-based optimum communication mode in which the communication time in one of the communication modes of the one of the communication devices, exceeds a communication time of other communication modes per communication condition of the one of the communication devices; and selecting the condition-based optimum communication mode in accordance with the communication condition when in communications with the other communication device, and performing the communications between the communication devices based on the condition-based optimum communication mode of the one of the communication devices". Claims 2, 6 and 8 recite features somewhat similar to those recited in claim 1. Therefore, the following comments may also be applied to the rejection of these claims.

Various embodiments of the present invention, determine a communication mode by comparing communication performance comprising hardware specification and a version of an operating system (OS) of a communication device. The nodes in the present invention assume a heterogeneous environment, which means that hardware specifications and versions of OS of the nodes are not homogeneous. Thus, in the present invention, performance is measured at every node.

At page 3 of the Office Action, the Examiner admits that Reynolds fails to disclose "a

plurality of communication conditions comprising a version of an operating system of the communication devices," as recited in claim 1, for example. However, the Examiner asserts that it would be obvious to one skilled in the art at the time the invention was made to use a version of an operating system of the communication devices in the broadcasting system of Reynolds. The Applicant respectfully traverses the Examiner's assertion of obviousness and request that the Examiner provide a reference to support this assertion or withdraw it.

Reynolds discloses a multi-processor parallel processing computer environment in which different communication modes are available for performing an information distribution operation between processors. Again, the technique includes automatically selecting an optimal communications mode at operation run-time. The selection decision utilizes hardware parameters of the system (i.e., communication speed between processors) and run-time parameters (i.e., number of nodes to broadcast a message to) (see Abstract; and FIG. 3, for example). That is, in Reynolds, the communication mode selection decision seeks to optimize factors such as time required to execute or work space requirements of the distribution operation.

The Applicant respectfully submits that Reynolds discloses executing a network speed test in order to check hardware performance. Reynolds does not disclose executing a network speed test between all nodes.

Again, the Applicant respectfully submits that "a multi-processor parallel processing system" is not comparable to "measuring a communication performance between a plurality of communication devices connected to a network," as recited in claim 1, for example.

Further, "performing a plurality of operations" is not the comparable to "measuring a communication time of each of the communication modes of one of the communication devices under a plurality of communication conditions comprising a version of an operating system of the communication devices," as recited in claim 1, for example.

As mentioned above, assuming a heterogeneous environment in the present invention, its possible that communication parameters are different at each node.

The teaching of Reynolds is fundamentally different from that of the present invention.

Therefore, it is respectfully submitted that Reynolds fails to establish a prima facie case of obviousness over the present invention. Therefore, it is respectfully submitted that the rejection is overcome.

## II. CONCLUSION:

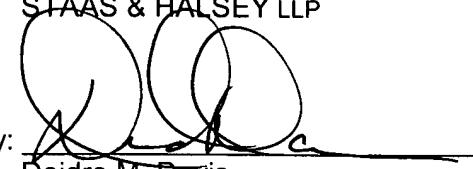
There being no further outstanding objections or rejections, it is submitted that the

application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP  
By:   
Deidre M. Davis  
Registration No. 52,797

Date: 1/29/2007  
1201 New York Ave, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501